

PROVIDING FOR THE USE AND DISTRIBUTION OF THE FUNDS AWARDED
TO THE QUINULT INDIAN NATION UNDER UNITED STATES CLAIMS
COURT DOCKETS 772-71, 773-71, 774-71, AND 775-71, AND FOR OTHER
PURPOSES

NOVEMBER 17, 2003.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 2425]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2425) to provide for the use and distribution of the funds awarded to the Quinault Indian Nation under United States Claims Court Dockets 772-71, 773-71, 774-71, and 775-71, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. DISTRIBUTION OF JUDGMENT FUNDS.

(a) FUNDS TO BE DEPOSITED INTO SEPARATE ACCOUNTS.—

(1) IN GENERAL.—Subject to section 2, not later than 30 days after the date of enactment of this Act, the funds appropriated on September 19, 1989, in satisfaction of an award granted to the Quinault Indian Nation under Dockets 772-71, 773-71, 774-71, and 775-71 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest accrued to the date of disbursement, shall be distributed by the Secretary and deposited into 3 separate accounts to be established and maintained by the Quinault Indian Nation (referred to in this Act as the “Tribe”) in accordance with this subsection.

(2) ACCOUNT FOR PRINCIPAL AMOUNT.—

(A) IN GENERAL.—The Tribe shall—

- (i) establish an account for the principal amount of the judgment funds; and
- (ii) use those funds to establish a Permanent Fisheries Fund.

(B) USE AND INVESTMENT.—The principal amount described in subparagraph (A)(i)—

- (i) except as provided in subparagraph (A)(ii), shall not be expended by the Tribe; and

- (ii) shall be invested by the Tribe in accordance with the investment policy of the Tribe.
- (3) ACCOUNT FOR INVESTMENT INCOME.—
 - (A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on amounts in the Permanent Fisheries Fund established under paragraph (2)(A)(ii) after the date of distribution of the funds to the Tribe under paragraph (1).
 - (B) USE OF FUNDS.—Funds deposited in the account established under subparagraph (A) shall be available to the Tribe—
 - (i) subject to subparagraph (C), to carry out fisheries enhancement projects; and
 - (ii) pay expenses incurred in administering the Permanent Fisheries Fund established under paragraph (2)(A)(ii).
 - (C) SPECIFICATION OF PROJECTS.—Each fisheries enhancement project carried out under subparagraph (B)(i) shall be specified in the approved annual budget of the Tribe.
- (4) ACCOUNT FOR INCOME ON JUDGMENT FUNDS.—
 - (A) IN GENERAL.—The Tribe shall establish an account for, and deposit in the account, all investment income earned on the judgment funds described in subsection (a) during the period beginning on September 19, 1989, and ending on the date of distribution of the funds to the Tribe under paragraph (1).
 - (B) USE OF FUNDS.—
 - (i) IN GENERAL.—Subject to clause (ii), funds deposited in the account established under subparagraph (A) shall be available to the Tribe for use in carrying out tribal government activities.
 - (ii) SPECIFICATION OF ACTIVITIES.—Each tribal government activity carried out under clause (i) shall be specified in the approved annual budget of the Tribe.
 - (b) DETERMINATION OF AMOUNT OF FUNDS AVAILABLE.—Subject to compliance by the Tribe with paragraphs (3)(C) and (4)(B)(ii) of subsection (a), the Quinault Business Committee, as the governing body of the Tribe, may determine the amount of funds available for expenditure under paragraphs (3) and (4) of subsection (a).
 - (c) ANNUAL AUDIT.—The records and investment activities of the 3 accounts established under subsection (a) shall—
 - (1) be maintained separately by the Tribe; and
 - (2) be subject to an annual audit.
 - (d) REPORTING OF INVESTMENT ACTIVITIES AND EXPENDITURES.—Not later than 120 days after the date on which each fiscal year of the Tribe ends, the Tribe shall make available to members of the Tribe a full accounting of the investment activities and expenditures of the Tribe with respect to each fund established under this section (which may be in the form of the annual audit described in subsection (c)) for the fiscal year.

SEC. 2. CONDITIONS FOR DISTRIBUTION.

- (a) UNITED STATES LIABILITY.—On disbursement to the Tribe of the funds under section 1(a), the United States shall bear no trust responsibility or liability for the investment, supervision, administration, or expenditure of the funds.
- (b) APPLICATION OF OTHER LAW.—All funds distributed under this Act shall be subject to section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407).

PURPOSE OF THE BILL

The purpose of H.R. 2425 is to provide for the use and distribution of the funds awarded to the Quinault Indian Nation under United States Claims Court Dockets 772–71, 773–71, 774–71, and 775–71, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Located on the southwest corner of the Olympia Peninsula in the State of Washington, the Quinault Indian Nation is comprised of 208,150 acres of land. The Tribe consists of the Quinault tribe as well as the descendants of five other coastal tribes in Washington: the Hoh, Quileute, Chehalis, Chinook, and Cowlitz.

Under current law, Congress has the express authority to disburse Tribal judgment funds. As trustee, it is the Department of the Interior's responsibility to ensure that any judgment award is distributed according to the terms of the settlement agreement between parties, and that the distribution follows the Court's order.

In 1983, in *United States v. Mitchell*, the Supreme Court ruled that the federal government was accountable in money damages for breaches of trust in connection with its management of forest resources on lands allotted to the Quinault Tribe. Further, on August 29, 1989, the United States Claims Court granted an order and entry of final judgment. Within this judgment were United States Claims Court Dockets 772-71, 773-71, 774-71, and 775-71. The Court ordered the United States to pay the Quinault Indian Nation a total of \$600,000 for "Tribal Fisheries and Interests Claims" and provided that the balance of the judgment "will be held by the Bureau of Indian Affairs, in escrow for the Quinault Indian Nation, to be disbursed upon approval of a judgment plan in accordance with 25 U.S.C. § 1402." H.R. 2425 will provide for the distribution of these funds along with the judgment plan that has been agreed to by the Tribe.

More precisely, the judgment plan in H.R. 2425 creates three separate accounts that will be overseen by the Quinault Tribe. One account will be put aside for those funds that have been increasing due to accrued interest on the original judgment amount. These will be dedicated to various tribal government activities. A second account will be created that includes the original award amount, which will be used to create a Permanent Fisheries Fund. Finally, a third account will be comprised of those funds which are amassed as a result of investment income that is earned from the Permanent Fisheries Fund after funds are disbursed. These monies will be used for fisheries enhancement projects.

COMMITTEE ACTION

H.R. 2425 was introduced on June 11, 2003, by Congressman Norman Dicks (D-WA). The bill was referred to the Committee on Resources. On October 29, 2003, the Full Resources Committee met to consider the bill. Congressman Richard W. Pombo offered an amendment in the nature of a substitute to change the legislation to mirror the language in Title III of S. 523, the "Native American Technical Corrections Act of 2003." It was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Distribution of judgment funds

This section authorizes the Quinault Nation to use the principal amount of the judgment funds for the establishment of a non-expendable Permanent Fisheries Fund. The investment income earned on this fund after the date the funds are disbursed to the Tribe under paragraph 3(A) is available for fisheries enhancement projects and the cost of administering the fund. This section also requires the Tribe to maintain the records and investment activities of the three accounts in the bill. These records must be audited annually.

Section 2. Conditions for distribution

This section provides for the judgment funds to be disbursed to the Tribe not later than 30 days after enactment of this Act. It also relieves the United States of all trust responsibility and liability for the investment, supervision, administration, or expenditure of the judgment funds once the funds are disbursed to the Tribe. Finally, the funds distributed are subject to Section 7 of the Indian Tribal Judgment Funds Use or Distribution Act.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 6, 2003.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2425, the Quinault Permanent Fisheries Fund Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 2425—Quinault Permanent Fisheries Fund Act

H.R. 2425 would direct the Secretary of the Interior to distribute judgment awards held in trust funds on behalf of the Quinault Indian Tribe. Over \$1 million in judgments and accumulated interest is being held in trust funds on behalf of the tribe; however, the Secretary does not have the authority to distribute the funds without Congressional approval. H.R. 2425 would allow the tribe to withdraw awards of \$600,000 and over \$600,000 in interest from the Treasury.

These trust funds are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes and are treated as nonfederal funds. As a result, outlays were recorded on the budget when the judgments were awarded to the tribes and paid into those trust funds. Consequently, there is no federal budget impact when the money is distributed to the individual members of the tribes. Therefore, CBO estimates that enacting H.R. 2425 would have no effect on the federal budget.

H.R. 2425 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enactment of this legislation would benefit the Quinault Indian Nation.

The CBO staff contact for this estimate is Lanette J. Walker. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

